

## PATENT COOPERATION TREATY

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## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference TS 5595 PCT	<b>FOR FURTHER ACTION</b>		See Form PCT/PEA/416
International application No. PCT/EP2004/053640	International filing date (day/month/year) 21.12.2004	Priority date (day/month/year) 23.12.2003	
International Patent Classification (IPC) or national classification and IPC C10G67/04			
Applicant SHELL INTERNATIONALE RESEARCH MAATS... et al.			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau) a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input checked="" type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>			
Date of submission of the demand  10.10.2005		Date of completion of this report  10.03.2006	
Name and mailing address of the international preliminary examining authority:   European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer  Cagnoli, M  Telephone No. +49 89 2399-	



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International application No.  
PCT/EP2004/053640

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**Box No. I Basis of the report**

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1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
  - ☐ publication of the international application (under Rule 12.4)
  - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements**\* of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

**Description, Pages**

1-21 as originally filed

**Claims, Numbers**

1-12 as originally filed

**Drawings, Sheets**

1/1 as originally filed

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

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**Box No. II Priority**

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1. ☐ This report has been established as if no priority had been claimed due to the failure to furnish within the prescribed time limit the requested:
- ☐ copy of the earlier application whose priority has been claimed (Rule 66.7(a)).
  - ☐ translation of the earlier application whose priority has been claimed (Rule 66.7(b)).
2. ☒ This report has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rule 64.1). Thus for the purposes of this report, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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1. Statement

Novelty (N)	Yes: Claims	1-12
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-12
Industrial applicability (IA)	Yes: Claims	1-12
	No: Claims	

2. Citations and explanations (Rule 70.7):

**see separate sheet**

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Reference is made to the following documents:

D1: US-A-4 975 177

D2: US-A-3 005 768

1. The present application does not meet the requirements of Art. 33 PCT because the subject-matter of claim 1, does not involve an inventive step in the sense of Art. 33 (3) PCT.
  - 1.1. Document D1 discloses (see figure 1, abstract, column 5, lines 24-28, column 6, lines 33-35 and 58-60, column 10, lines 49-68) a process to prepare a base oil from which the subject-matter of claim 1 only differs in that the product is transported from one location to another, after hydroisomerisation and before a solvent dewaxing step.
  - 1.2. The problem that the present application solves may be considered as providing the final product at the location closer to the end user.
  - 1.3. It has to be pointed out that D1 does not exclude to transport the intermediate product from one location to another and that even the dislocation of the said intermediate product through a pipe is also a kind of transportation.
  - 1.4. However, such a solution is already well known in the art for example it is already suggested by D2, which considers to solvent dehaze base oils to the desired final haze properties (see for example column 1, lines 40-43), which base oils being considered as a feedstock.

Transporting feedstock or intermediate products from a location to another is a common practice in the petrochemical industry and therefore transporting the hydroisomerised oil from one location to another is merely one of the different straightforward possibilities from which the skilled person would select, in accordance with circumstances, without the exercise of inventive skill, in order to solve the problem posed.

2. Dependent claims 2 to 12 do not appear to contain any additional features which, in combination with the features of any claim to which they refer, meet the requirements

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of the PCT with respect to inventive step, because their additional features are either anticipated by D1 or rendered obvious by the available prior art.

3. Claims 1, 5, 6-8 do not meet the requirements of Article 6 PCT in that the matter for which protection is sought is not clearly defined. The claims attempt to define the subject-matter in terms of the result to be achieved, which merely amounts to a statement of the underlying problem, without providing the technical features necessary for achieving this result.
4. The term "remote" used in claim 1 is vague and unclear and leave/s the reader in doubt as to the meaning of the technical features to which it refers, thereby rendering the definition of the subject-matter of said claim unclear, Article 6 PCT.